

REMARKS

Claims 25-30 and 33-38 are pending in the case and being examined. Claims 36-38 were found allowable.

Applicants acknowledge withdrawal of the objection to claim 36 and rejection of claims 33-35 under 35 U.S.C. 102(e), as anticipated by Brodeur et al (US 2003/0031682), in view of the previous response.

Rejection Under 35 U.S.C. §112, ¶1

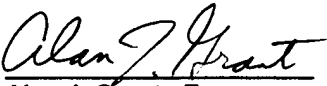
Claims 25-30 and 33-35 were rejected under section 112, first paragraph, as containing subject matter not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

In response, Applicants have canceled claims 26, 27, 34 and 35 and have amended parent claims 25, 28 and 33 to recite that the isolated polypeptide has at least 95% identity with respect to the referenced sequence and, in the case of claim 33, that it also has at least 12.6% identity to SEQ ID NO: 7 (in keeping with the data of Table 1). In support of the foregoing, Applicants reiterate previous arguments relying on Example 14, provided in the PTO Guidelines on applying the Written Description requirement.

Applicants further contend that sequence homology of 95%, plus the fact that amino acid substitutions are readily known and accomplished in the art, make the claims sufficiently enabled in light of the specification so as to enable those in the art to make and use the claimed polypeptides. In addition, the Examiner has pointed out that no sequence homology was presented for the GAS36(2) polypeptide (SEQ ID NO: 4)

and *S. pneumoniae* polypeptide (SEQ ID NO: 7) as shown in Figure 2. In response, Applicants note that the sequence of SEQ ID NO: 4 is provided in the application, along with SEQ ID NO: 7, so that a sequence alignment can be readily generated by computer programs well known to those in the art (for example, the clustal algorithm used to generate the alignment of Figure 2 and recited in the application at page 31, lines 2-3) and Applicants need not provide such a best fit alignment in order to enable the claimed invention. Thus, the most conserved stretches between the two polypeptide sequences can be readily ascertained without further guidance.

The Commissioner is requested to charge any additional fees, or credit any refunds, to Deposit Acc't No. 03-0678.

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 Alan J. Grant, Esq.	<u>1/20/04</u> Date

Respectfully submitted,



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